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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,258	01/14/2004	Giulio Pettinaroli	HCI-102-A	4386
22045	7590	06/09/2006	EXAMINER	
BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075			BASTIANELLI, JOHN	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,258

Applicant(s)

PETTINAROLI, GIULIO

Examiner

John Bastianelli

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 7-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 13-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

1. The examiner would like to note that the certified copy of the foreign priority document has still not been received.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 5-6, 13-14 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Booth et al. US 5,551,467 as evidenced by McCutcheon et al. US 5,560,587. Booth discloses a ball valve 10 having a housing 20 which is mounted for rotation about an axis of operation, a valve member which is a ball 24, the ball having a passage 37 and 39 through which fluid flows from an inlet 12 of the housing to an outlet 14 of the housing, and the ball having at one end of the passage a metering opening 39 for the fluid, the ball being rotatable about the axis of operation between a first closed position in which the opening is concealed by an adjacent housing wall and fluid flow through the passage is prevented, and a fully open position in which the opening is aligned with one of the inlet and outlet of the housing to permit of maximum fluid flow through the passage, and characterized in that the opening in the ball at the one end of the passage. Regarding the opening being made by removal of material by high pressure fluid jetting, the patentability of a product does not depend on its method of production.

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If the product in the product-by-process claim is the same as or obvious from a product in the prior art, the claim is unpatentable even though the prior product was made by a different process (see MPEP 2113). The process of removing material by high pressure fluid jetting is evidenced by McCutcheon et al. US 5,560,587. The opening includes a slot part. The opening is drilled. The outer wall has a recess to receive an operating device. The valve has a valve body.

4. Claims 1, 3-6, 13 and 15-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Shiokawa US 5,988,590 as evidenced by McCutcheon et al. US 5,560,587.

Shiokawa discloses a ball valve 1 having a housing 2 which is mounted for rotation about an axis of operation, a valve member which is a ball 4, the ball having a passage 11 through which fluid flows from an inlet 7a of the housing to an outlet 7b of the housing, and the ball having at one end of the passage a metering opening 11 for the fluid, the ball being rotatable about the axis of operation between a first closed position in which the opening is concealed by an adjacent housing wall and fluid flow through the passage is prevented, and a fully open position in which the opening is aligned with one of the inlet and outlet of the housing to permit of maximum fluid flow through the passage, and characterized in that the opening in the ball at the one end of the passage. Regarding the opening being made by removal of material by high pressure fluid jetting, the patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product in the prior art, the claim is unpatentable even though the prior product was made by a different process (see MPEP 2113). The process of removing material by high pressure fluid jetting is evidenced by McCutcheon et al. US 5,560,587. The opening is drilled. The ball is metal. The outer wall has a recess to receive an operating device. The valve has a valve body.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Alternatively, claims 4, 15, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Booth et al. US 5,551,467 in view of Shiokawa US 5,988,590 as evidenced by McCutcheon et al. US 5,560,587. Booth lacks metallic ball. Shiokawa discloses a metallic ball. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the ball of Booth metallic as disclosed by Shiokawa in order to have a tougher material as the ball to make it last longer.

Response to Arguments

7. Applicant's arguments filed April 20, 2006 have been fully considered but they are not persuasive.

8. The applicant does not appear to understand product by process and how it relates to claim limitations. Please review MPEP 2113. The examiner is only using McCutcheon to show the process of high pressure fluid jet cutting. The structure is disclosed by Booth and Shiokawa.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Bastianelli whose telephone number is (571) 272-4921. The examiner can normally be reached on M-F (9:30-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



John Bastianelli
Primary Examiner
Art Unit 3751



JB

June 6, 2006